

does not apply to foreign terrorists overseas not in the United States.

That is the sort of root of this problem is that we are applying constitutional protections to overseas terrorists. Now how absurd is that?

I think if the American people really knew what was going on up here and really knew what this debate was all about, and I do think that they are rising by the day. We are getting letters and phone calls by the day, and I believe they are not going to stand for this kind of nonsense that puts the American people and the war fighter at risk.

Mrs. WILSON of New Mexico. If the gentleman would yield, there are some fallacies about the Foreign Intelligence Surveillance Act that I think we need to put to rest.

One is there is an emergency provision, you can just listen to this stuff and go to the court 72 hours from now. You have an emergency provision. It is true there is an emergency provision, but you have to develop the whole case for probable cause and present it to the Attorney General who has to stand in the shoes of the judge. So you have to get all of the work done; you just don't have the final signoff for a judge. And the time problem occurs before you get to that point. It is to develop the whole case for probable cause.

I have seen one of these packets. It is sometimes close to 2 inches thick of paper that explains how you meet all of the requirements of the act. When it really matters, when we had three soldiers who were kidnapped in Iraq, it took over 24 hours to get an emergency warrant.

I don't know whether that would have saved our soldiers or not. We thought we had a tip on who it was that had kidnapped them. I don't know if it would have been fast enough even if we would have been able to turn it on immediately. But I know if they were my kids, a 24-hour delay is not good enough, and we should expect more from our Government.

Mr. McCAUL of Texas. Reclaiming my time, I would like to add to that, having worked on FISA applications, as the gentlelady has seen, it is a very cumbersome, paperwork-intensive process to establish probable cause and to get a court-ordered warrant. In many cases, it took us 6 to 9 months to get these warrants.

Now, it has been a little streamlined since 9/11, but it is still a very, very cumbersome process. And again, the statute was never intended to apply to this type of situation. That is why we need to fix this now.

Again, the majority leader, STENY HOYER, says there is no urgency. There is no urgency. Tell al Qaeda that.

Chairman SILVESTRE REYES, things will be just fine. Tell al Qaeda that. They must be celebrating. When they look at what we are doing with this statute, they must be saying to themselves, How naive. We are playing right into their hands, and this needs to stop.

I yield now to the gentleman from Georgia (Mr. GINGREY).

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Mr. GINGREY. Well, I thank my colleague for yielding. I thank all of my colleagues for bringing this important issue to the floor tonight to make sure that each and every Member on both sides of the aisle has a good understanding of this issue. And anybody who might be listening or tuned in, but mainly for our colleagues here to understand.

The gentlewoman from New Mexico clearly understands the issue. The gentleman from Texas, having worked in the Justice Department, clearly understands the issue. Our colleague from Pennsylvania (Mr. DENT) who was here last week with us, I know that he clearly understands.

But it can be confusing. And you know, you listen to this, and I think sometimes eyes glass over pretty quickly when you get into the weeds of it.

But I think the bottom line is what my colleagues have already said. This law originally passed for the reasons Representative WILSON outlined back in the late 1970s. And it was very much based on the technology of the time.

And here we are in 2008, and I don't even have a hard line at my apartment here in Washington. We have a cell phone. And we have a cell phone that has a yearly contract. But, of course, the bad guys, what they do, in regard to cell phone technology, is they buy these throwaway cell phones and these burn cards and it's very difficult to track them.

So in the modernization of FISA in the Protect America Act, and indeed in the PATRIOT Act, we tried to bring that law into the 21st century. And I'll tell you this; I trust the three Michaels on this. I trust the Attorney General, Michael Mukasey; I trust Michael McConnell, the Director of National Intelligence. I trust Michael Hayden, the Director of the CIA. And I think they would tell us what they are telling us no matter who was in the White House, no matter who the Commander in Chief was. This is not political. They're basically saying to the Congress, we need these tools. We need these new tools. We need to grant immunity to the telecommunications companies so they can provide phone records to us, so that our intelligence experts can look at this data, if you want to call it data mining. I don't know exactly how it's done. But you have to have that ability.

And indeed, the telecommunications companies in this country are required by Federal law under the penalty of both civil and criminal if they don't provide this data. So they're darned if they do and they're darned if they don't. And the Democrats seem to want to insist that this liability persist. I don't know. Maybe it's a sop to the trial lawyers. But it's absolutely essential that we pass this bill.

And as my colleagues pointed out, here we are 18 days since the FISA law

expired. I heard Mr. REYES say on television this weekend on one of the Sunday morning TV shows, well, you know, we've talked to the telecommunications companies. He, of course, I'm referring to the gentleman from Texas, who is the chairman of the Select House Committee on Intelligence basically saying it's time, now that we understand, he understands the need that let's go ahead and pass this law.

And here we are this week and what happens? You know, this is the 18th day. It just goes on and on and on.

So clearly, I think when you strike right to the bottom line, it's exactly what my colleagues have said. You don't have to understand it any more than that. We need this renewal. We need this modern technology of this law to continue to protect our citizens.

I'm honored to be here with my colleagues and to share my thoughts, although I don't have the depth of knowledge that they do. I don't need to have that. I just have a little faith in what my colleagues are telling me and the need to protect our citizens.

So with that I will yield back to the gentleman from Texas, and be glad to be with my colleagues for the rest of the hour and continue to dialogue with them.

Mr. McCAUL of Texas. I thank the gentleman for his comments. And reclaiming my time, there is an urgency here. We need to act in real time with real time intelligence. We can't afford to wait 6 to 9 months for a FISA Court to issue a warrant to a foreign terrorist overseas who has no constitutional protections.

Let's look at what the Director of National Intelligence said about this issue just recently since the expiration of the Protect America Act. He says, "Our experience in the past few days since the expiration of the act demonstrates that these concerns are neither speculative nor theoretical. Allowing the act to expire without passing the bipartisan Senate bill has had real and negative consequences for our national security. Indeed, this has led directly to a degraded intelligence capability."

I don't know of any American who can read these words from our Director of National Intelligence, the man who heads up our intelligence communities, the man who served under both Democrats and Republican, and not have a chill run up your spine when you read this quote. The threat, the risk, the grave risk that the majority is putting this country in by allowing this act to expire. There is an urgency and we need to get it passed.

With that I am going to yield to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. I would like to thank the gentleman from Texas (Mr. McCAUL) and the gentlelady from New Mexico, Congresswoman WILSON, for their leadership on this critical issue. I'm also pleased to be joined by my colleague from Georgia (Mr. GINGREY).